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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

JAVIER CABRERA, an individual;  
DEBORAH MILLER, an individual,  
CHERIE MANCINI, an individual,  
NEVADA SERVICE EMPLOYEES UNION  
STAFF UNION ("NSEUSU"),  
an unincorporated association,

Plaintiffs,

vs.

SERVICE EMPLOYEES INTERNATIONAL  
UNION, a nonprofit cooperative corporation;  
LUISA BLUE, in her official capacity as  
Trustee of Local 1107; MARTIN MANTECA,  
in his official capacity as Deputy Trustee of  
Local 1107; MARY K. HENRY, in her official  
capacity as Union President; CLARK  
COUNTY PUBLIC EMPLOYEES  
ASSOCIATION dba NEVADA SERVICE  
EMPLOYEES UNION aka SEIU 1107, a non-  
profit cooperative corporation; DOES 1-20;  
and ROE CORPORATIONS 1-20, inclusive,

Defendants.

Case No.: 2:18-CV-00304-RFB-DJA

**DEFENDANT SERVICE EMPLOYEES  
INTERNATIONAL UNION'S MOTION  
FOR A NEW TRIAL DATE**

**(FIRST REQUEST)**

1 Defendant Service Employees International Union (“SEIU”) hereby moves this Court for  
2 a new trial date, due to the unavailability of the sole witness it plans to present on its defense that  
3 it may not be held liable for the claims of Plaintiff Debbie Miller related to her employment with  
4 defendant Nevada Service Employees Union, aka SEIU Local 1107 (“Local 1107”) on the  
5 “single employer”/“alter-ego” theories of liability as alleged. As required by Local Rule IA 6-1,  
6 SEIU notes that this is the first motion by SEIU to continue the trial date, following defendant  
7 Local 1107’s similar motion filed on June 15, 2023 [ECF No. 262], which remains pending.

8 The reason for SEIU’s request is that its designated witness, Deirdre Fitzpatrick [*see* ECF  
9 No. 261 at 17] is no longer available on the trial dates in early October 2023 set by the Court on  
10 March 30, 2023. Ms. Fitzpatrick had been employed by SEIU as its Chief of Staff, and then a  
11 Senior Advisor and Senior Counsel to the President, until January 2023. Despite her departure  
12 from SEIU, undersigned counsel for SEIU nevertheless made preparations with Ms. Fitzpatrick  
13 to testify at trial regarding the relationship between SEIU International and Local 1107 during  
14 the trusteeship over Local 1107. However, on August 10, 2023, Ms. Fitzpatrick learned that her  
15 new employment requires her to travel outside of the United States between October 3 and  
16 October 12, 2023, the same dates scheduled for trial. In addition, she is unavailable between  
17 October 18 and October 28, 2023, due to a long-scheduled family vacation.

18 Ms. Fitzpatrick is now Of Counsel at the law firm of Bredhoff & Kaiser and serves as the  
19 General Counsel to Climate Jobs National Resource Center (“CJNRC”), an organization that  
20 works with labor unions to develop strategies to combat climate change, create good union jobs,  
21 and reverse racial and economic inequality by building a worker-centered renewable economy.  
22 *See* <https://www.cjnrc.org/>. In her capacity as General Counsel, Ms. Fitzpatrick is an essential  
23 part of a team of twenty labor leaders who will be meeting with elected officials and union  
24 counterparts in Europe to learn about the clean energy transition in Europe and advance the  
25 educational and advocacy mission of CJNRC. Though she has worked diligently to maintain the  
26 commitment she made to assist her former employer, SEIU, in this matter, she is unable to  
27 extricate herself from this obligation with her new position.

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Courts in the Ninth Circuit generally consider four factors in deciding a motion to continue: “(1) the ‘diligence’ of the party seeking the continuance; (2) whether granting the continuance would serve any useful purpose; (3) the extent to which granting the continuance would have inconvenienced the court and the opposing party; and (4) the potential prejudice.” *State Farm Fire & Cas. Co. v. Willison*, 833 F. Supp. 2d 1200, 1211 (D. Haw. 2011) (citing *United States v. Flynt*, 756 F.2d 1352, 1358–59 (9th Cir.), *amended on other grounds*, 764 F.2d 675 (9th Cir. 1985); *United States v. Kloehn*, 620 F.3d 1122, 1127–28 (9th Cir. 2010)).

In this case, SEIU has been diligent in its efforts to ready the case for trial, and has prepared this motion as soon as possible upon learning of Ms. Fitzpatrick’s unavailability and notifying opposing counsel.

As the sole witness SEIU planned to present regarding its liability, it is clear that Ms. Fitzpatrick’s unavailability would present difficulties of proof for both Plaintiff and SEIU, and thus continuance is necessary. Relatedly, SEIU would suffer prejudice if it were not able to present Ms. Fitzpatrick, who is knowledgeable about the claims at issue in this lawsuit as it pertains to SEIU’s potential liability. While SEIU could seek to produce a substitute witness, there is no substitute who could cover the matters at issue based on first-hand knowledge.

Finally, Plaintiff Miller will suffer little inconvenience if the trial is continued by a short period, as SEIU here requests.

For the foregoing reasons, SEIU respectfully requests that its motion for a new trial be granted and a new trial be set for a date in November 2023 or later.

DATED: August 15, 2023

ROTHNER, SEGALL & GREENSTONE  
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**CERTIFICATE OF SERVICE**

I am a member of Rothner, Segall & Greenstone. On this 14th day of April, 2020, I caused a true and correct copy of the foregoing **DEFENDANT SERVICE EMPLOYEES INTERNATIONAL UNION'S MOTION FOR A NEW TRIAL DATE (FIRST REQUEST)** to be served in the following manner:

✓ ELECTRONIC SERVICE: Pursuant to LR IC 4-1 of the United States District Court for the District of Nevada, the above-referenced document was electronically filed and served through the Notice of Electronic Filing automatically generated by the Court.

ROTHNER, SEGALL & GREENSTONE

By /s/ Eli Naduris-Weissman  
ELI NADURIS-WEISSMAN